

TENNESSEE RULES OF CRIMINAL PROCEDURE

RULE 43

PRESENCE OF THE DEFENDANT

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(c) Presence Not Required.—A defendant need not be present in the following situations:

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(4) At arraignment, provided the defendant's attorney of record is present in open court and presents a waiver, signed by the defendant, of the right to be present or if the arraignment is conducted by electronic audio visual conference as set forth in sub-section (e) below.

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[Add this new subsection (e):]

(e) In the absence of an objection by the defendant, the arraignment of the defendant before the court pursuant to Rule 10 of the Tennessee Rules of Criminal Procedure may, in the court's discretion, be through the use of an electronic audio visual device if:

- (1) the judge, in the sound discretion of his or her discretion, determines that the use of such devices shall achieve the purposes of the Rules of Criminal Procedure;
- (2) the judge and defendant are able to communicate and view each other simultaneously and converse with each other and be heard in the courtroom by members of the public; and
- (3) no plea is entered by the court except a plea of not guilty.

Advisory Commission Comment

The purpose of this amendment was to extend the discretion of the court to use electronic audiovisual technology to criminal arraignments. The amendment is intended to parallel the 1998 amendment to Rule 43 and Rule 5 of the Tennessee Rules of Criminal Procedure permitting the use of electronic audiovisual technology in initial appearances. The Rule permits the court, in its discretion, to use electronic audiovisual technology at an arraignment if the use promotes the purposes for the Tennessee Rules of Criminal Procedure, allows the judge and defendant to communicate with and view each other simultaneously, permits discussions to be heard by the public, and does not involve the defendant's entry of a guilty plea.